

**BEFORE THE DIVISION OF INSURANCE**

**STATE OF COLORADO**

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**FINAL AGENCY ORDER O-06-053**

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**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF  
EQUITABLE LIFE & CASUALTY INSURANCE COMPANY,**

**Respondent**

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**THIS MATTER** comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Equitable Life & Casualty Insurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated May 19, 2005 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

**FINDINGS OF FACT**

1. At all relevant times, the Respondent was licensed by the Division as a life, accident and health insurance company including long-term care and Medicare Supplement insurance.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on May 19, 2005, the Division completed a market conduct examination of the Respondent. The period of examination was July 1, 2003 to June 30, 2004.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The

Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all and all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

#### **CONCLUSIONS OF LAW AND ORDER**

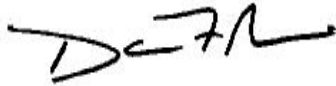
8. Unless expressly modified in this Final Agency Order ("the Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A1 concerns the following violation: Failure to file the Annual Report of Policy Forms and Compliance Certificate with the Division. The Respondent shall provide evidence that it has corrected its procedures to ensure that the listing of policy forms and compliance certificate are filed annually with the Division in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue A2 concerns the following violation: Failure to establish long-term care suitability standards. The Respondent shall provide evidence that it has taken appropriate action to ensure that long-term care suitability standards are incorporated in Respondent's forms in compliance with Colorado insurance law.
11. Issue E1 concerns the following violation: Failure, in some cases, to incorporate the fraud warning language required by Colorado insurance law. The Respondent shall provide evidence to ensure that it has corrected all applicable forms to include the required fraud warning language in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.

12. Issue E2 concerns the following violation: Failure, in some cases, to use the correct form in properly identifying the basic long-term care plan for Colorado. The Respondent shall provide evidence to ensure that the correct forms identifying the basic long-term care plan for Colorado are in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
13. Issue E3 concerns the following violation: Failure to incorporate all required elements in the 'personal worksheet'. The Respondent shall provide evidence to ensure that all required elements are incorporated in the long-term care insurance personal worksheet in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
14. Issue E4 concerns the following violation: Failure to incorporate various mandatory elements in the outline of coverage. The Respondent shall provide evidence demonstrating that it has corrected the outline of coverage to include all required elements in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
15. Pursuant to § 10-1-205(3)(d), C.R.S., the Respondent shall pay a civil penalty in the amount of two thousand and 00/100 dollars (\$2000.00). This fine represents a combined fine for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
16. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related order.
17. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section, with evidence of the filing sent to the market conduct section. All self-audits, if any, shall be performed in accordance with the Division's document, 'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self-audit reports must be received within ninety

(90) days of the Order, with a summary of the findings and all monetary payments to covered persons.

18. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
19. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

**WHEREFORE:** It is hereby ordered that the findings and conclusions contained in the final examination Report dated May 19, 2005, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 20th day of September, 2005.



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David F. Rivera  
Commissioner of Insurance

**CERTIFICATE OF CERTIFIED MAILING**

I hereby certify that on the 20th day of September, 2005, I caused to be deposited the within **FINAL AGENCY ORDER NO. O-06-053 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF EQUITABLE LIFE & CASUALTY INSURANCE COMPANY** in the United States mail via certified mailing with the proper postage affixed and addressed to:

Mr. Earl R. Ross, President  
Equitable Life & Casualty Insurance Company  
3 Triad Center  
Salt Lake City, UT 84110

Kendall R. Surfass, Vice President  
Secretary & General Counsel  
Equitable Life & Casualty Insurance Company  
3 Triad Center  
Salt Lake City, UT 94110

A handwritten signature in black ink, appearing to read 'Dolores Arrington', written in a cursive style.

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Dolores Arrington, MA, AIRC, ACS  
Market Conduct Section  
Division of Insurance